

NORTH DAKOTA STATE WATER COMMISSION LAND AUCTION BIDDERS GUIDE

Auction Date and Location

11:00 a.m. November 19, 2020 at the Benson County Courthouse in Minnewaukan, ND

Sale Notes

- * Property will be sold free of a cash rent contract for 2021
- * 2020 real estate payment in lieu of taxes will be paid by seller
- * Real Estate Taxes for 2021 and beyond will be the buyer's responsibility, 2020 tax estimate is \$3,802.19 on 591.61 acres
- * State will continue to pay in lieu of taxes on canal easement area of 36.62 acres
- * Appraised value and minimum bid for property is \$461,500
- * 10% earnest payment is due on the day of sale
- * Additional sales charge of \$15,500 is due at closing

Property Notes

- * Property was purchased by the ND State Water Commission (SWC) as mitigation for the Devils Lake West Outlet Project in 2019 at the previous owner's request
- * Property Consists of 628.23 deeded acres +/-
- * Approximately 415 acres of non-irrigated cropland
- * Property is crossed by the Devils Lake West Outlet Canal and a 250-foot-wide easement area of 36.62 acres is not usable to the buyer
- * Remaining 176 acres +/- are wetland, low utility, or road right-of-way
- * Property has an equipment crossing in the center of the section for the buyer's convenience
- * A flowage easement will be recorded when the property is sold. The flowage easement will not restrict the buyers use of the property but will prevent future claims of crop loss from outlet operation to be considered for mitigation by the ND SWC

Legal Description

Township 152 North, Range 68 West, Section 26:

NE1/4; SE1/4; and the W1/2; LESS a tract of land (Tract A) located in the E1/2E1/2 more specifically described as follows:

Beginning at the east quarter corner of said section; thence S00°00'58"E along the east line of said section, 45.81 feet; thence S89°59'02"W, 500.30 feet; thence N00°00'07"E, 1021.69 feet; thence N89° 11'47" E, 500.30 feet to the east line of said section; thence S00°00'W along the east line of said section, 982.76 feet to the point of beginning; said tract contains 11.77 acres more or less.

The State of North Dakota reserves and excepts the following

1. 50% of all oil, natural gas, and minerals that may be found on or underlying the Property, as provided by N.D.C.C. § 38-09-01.
2. Title to all archaeological or paleontological materials, whether such materials are found upon or below the surface of such lands, as provided by N.D.C.C. § 55-03-06.
3. The right to enter, occupy, and make such use of the surface as is reasonably necessary in exploring, excavating, and transporting all reserved materials.
4. A canal easement (Canal Easement) to construct, maintain, operate, inspect, repair, alter, replace, change the size of, or remove a canal or pipeline, and appurtenances thereto, for the Devils Lake Outlet (Outlet) for the transportation of water over, under, upon, through, and across:

A 250-foot-wide strip of land, 125 feet on each side of the canal centerline lying in the S1/2 Section 26, Township 152 North, Range 68 West of the 5th PM; except for the portion adjacent to Tract A, where the easement on the north side of the canal extends in width to Tract A's property line, as shown on the diagram attached as Exhibit A; said tract contains 36.62 acres, more or less.
5. A flowage easement (Flowage Easement) for purposes of regularly operating the Outlet without modification, by periodically discharging, flowing, or draining water over, under, upon, through, or across the Property as a result of Outlet operation, including discharge of saline and mineral-laden water.
6. All rights and privileges vested in the State of North Dakota under the provisions of its Constitution and laws.

ND SWC Land Auction Terms and Conditions

I. Terms and Conditions of Auction

The property will be offered for sale as a single parcel on November 19, 2020 at 11 a.m. at the Benson County Courthouse in Minnewaukan, ND. Signage will be placed to direct bidders to the courtroom. All bidding is open to the public without regard to a prospective bidder's sex, race, color, religion, or national origin.

- A. Physical distancing measures will be followed, and all bidders will be required to wear a face covering while inside of the courthouse to comply with Benson County Covid-19 protocol. Phone bidding will be available upon request. Phone bidders must request accommodation and coordinate earnest payment and agreement signing arrangements with SWC staff by November 16, 2020 at 5 p.m.
- B. The winning bidder will be required to provide earnest payment of ten percent of the purchase price and complete and sign a standard North Dakota Real Estate Purchase Agreement on the date of the auction.
- C. The earnest payment will be held in escrow until the closing date. All documentation will be available for review prior to commencement of the auction. The sale must be closed on or before 1/18/2021. A closing appointment will be scheduled in the days following the auction.

II. Bidding Procedures

Anyone who wishes to bid must first register their name, address and phone number with SWC staff. This can be done over the phone ahead of time or in person prior to the auction. Bidders will receive a bidder number and may place a bid by raising their number and identifying their bid. Phone bidders must communicate their bidder number and bid clearly to their contact person. The property is sold when the Auctioneer announces, "sold," identifies the winning bidder number and the amount of the winning bid. In the case of a tie bid, bidding will be reopened between the two tied bidders. The high bid cannot be withdrawn once the Auctioneer determines it to be the winning sale bid.

III. Purchase Agreement, Marketability, Signing Area

When the auction is complete, the successful high bidder must sign a standard North Dakota Real Estate Purchase Agreements to purchase the property. The transaction must be closed on or before 1/18/2021 or the Purchaser will be in default and the earnest money paid will be forfeited to the Seller. The Auctioneer and Seller assume that the bidders have inspected the property and are satisfied with the conditions of the property and accept the property in an "as is -where is" condition.

The buyer agrees to hold the Seller harmless regarding any representation as to the status, zoning, condition and any other material representation regarding the property. Due diligence of the property is strongly recommended for all bidders.

IV. Forfeiture of Earnest Money Paid Pursuant to the Terms of the Purchase Agreement

Purchaser's failure to close the sale by the closing date due to insufficient funds, or for any other reason will result in the forfeiture of Purchaser's earnest money deposit.

V. Closing

At closing, Buyer will be required to pay the difference between the earnest money deposit and the final selling price. Additionally, the Buyer must pay a sales charge of \$15,500 for the cost of preparing the land for sale. Title insurance will not be furnished and any fees and closing cost regarding determination of title will be paid by the Purchaser. An updated Abstract of Record Title will be furnished to the Purchaser prior to close for the Purchaser's attorney to prepare a preliminary title opinion if desired by the Purchaser or the Purchaser's lender.

VI. Showing of the Property

The property is accessible on all four sides by developed township roads and appointments can be made to inspect the property along the canal by vehicle as well. ALL BIDDERS ARE BOUND TO ACCEPT THE PROPERTY "AS IS" AND WITH ALL FAULTS AND DEFECTS WHETHER OR NOT THEY ACTUALLY INSPECT THE PROPERTY. NO WARRANTY IS EXPRESSED OR IMPLIED AS TO THE MARKETABILITY OR CONDITION OF THE PROPERTY.

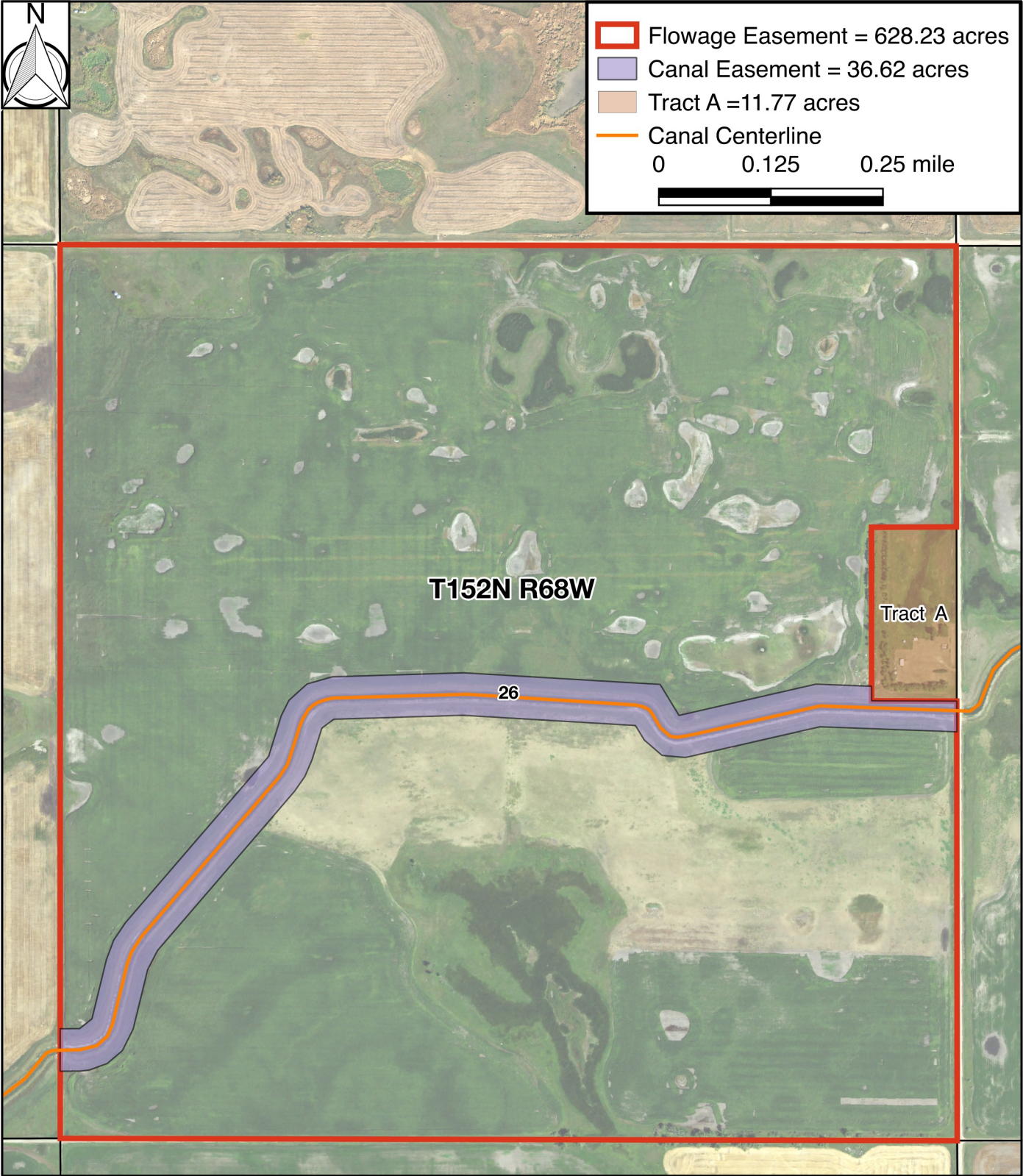
VII. Miscellaneous

Conduct of the auction and increments of bidding will be at the discretion of the Auctioneer. The determination by the Auctioneer as to all matters, including the high bidder and the amount of the high bid will be conclusive.

This auction bidder's information is for the bidder's information and convenience only. Nothing contained in this information shall be binding on the Seller of the property. Announcements made by the Auctioneer on the day of the sale will take precedence over printed matter.

Exhibit A

Section 26, Township 152N, Range 68W



Property boundaries shown are approximate

Background Imagery is 2017 NAIP (National Agricultural Imagery Program)